Op-Ed

Health legislation in 2000

Making changes that benefit public health will not be easy

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During the year 2000, the last year of the 106th Congress, many critical health care issues face the nation. As we begin the second session of this Congress, the likelihood that this year will be a significant one in the health care of the nation is slim. The smart money is on lots of talk but little real action.

Topping the list of action points, of course, is securing health care coverage for the 44 million uninsured Americans. Every year that we fail to act, the problem gets worse. Given that the number of uninsured is continuing to grow at a time when the economy is booming, we can only wonder what we would be facing if this country were in a recession. The good news is that the issue is increasingly being discussed, and a lot of people with different political points of view are urging action. The bad news is that we are no closer to a consensus on how to address this problem than we were when the Clinton health care proposal failed to be enacted.

One approach that is getting a lot of attention involves systems of supporting coverage based on tax credit. The reasons for this approach's appeal vary. Some believe the system based on employers providing coverage is eroding and that a system based on individual tax credit is a way to replace it. Some like the fact that it provides greater portability of benefits, an important factor in the current economy. Some seek greater equity of tax treatment for those who buy their own coverage with those whose coverage is provided by employers. Some believe that, in effect, giving people a voucher through tax credits will mean less interference in the delivery of medicine.

The more this approach is examined, however, the more difficult issues will surface. First, it cannot effectively reduce the number of uninsured without being accompanied by extensive reforms of the insurance market, including for individual purchasers. Yet, many who find the tax-credit approach most attractive may be the least interested in addressing those reforms. Second, the complications of addressing different costs in different areas of the country, and of making it workable for people on low and moderate incomes, may be formidable. Finally, it clearly will cost a lot of money. We can't spend it unless we are willing to raise it—which no one thinks would be easy. Certainly, lots of hearings will be held on this issue, and lots of rhetoric will flow, but the likelihood of action is slim.

The second issue, of course, is to enact a strong and meaningful patient bill of rights. We need to bring balance back into the relationship between insurers and managed care organizations and patients and providers. The House passed the bill we need when it approved the Norwood-Dingell bill in the fall. It returns medical decisions to doctors and their patients, establishes strong and enforceable internal and external review procedures based on medical necessity, and lets states make insurance plans liable for their decisions. But the refusal of the House leadership to include supporters of the patient bill of rights on the conference committee, and the strong opposition by Senate Republicans, will make it difficult to secure a good product out of the conference.

A third issue that will be front and center in the Congress will be protecting the privacy of medical records. An important step forward has been taken with the publication of proposed regulations by the Secretary of the US Department of Health and Human Services that should serve as a benchmark for judging any further legislative efforts. But the authority of the Secretary is limited in several key areas: reaching beyond electronic records, assuring a private right of action so that a person has an effective and available means of enforcement, and being able to protect medical records in all settings are a few areas that will not be effectively addressed without legislative action.

The final major issue that will clearly engage this Congress is ensuring access for the elderly to prescription drugs. Leaving the Medicare population—the heaviest users of prescription drugs—without coverage of this critical benefit is untenable. Prescription drugs are a critical element of modern medical care. The situation is worsened by the fact that the elderly consistently pay the highest prices for drugs—frequently twice as much, or even more, than favored purchasers—because they are individual purchasers in the market, without the bargaining power of large HMOs or the government.

There are other important issues as well. Discussions will surely begin on more major reforms of Medicare, although we are not close to consensus in this country about how to prepare for the influx of baby boomers into this program. Unfortunately, there will probably be efforts to stop federal support of stem cell research, which would be a tragedy. This area of research holds the promise of cures for diseases like Parkinson's. To close the door on this promise because of abortion politics would be unconscionable.

We will settle the national debate on organ distribution policy and, hopefully, decide that the system must have public accountability and direction. Tobacco control activities and reduction in youth smoking will be an issue as long as I am in Congress. We all await the decision of the Supreme Court on the Food and Drug Administration (FDA)'s jurisdiction over tobacco. The case for the FDA is strong, and regulation by the agency is critical to anti-smoking efforts. Whichever way the case is decided, a reaction in the Congress is likely.

There are many critical issues. And while the political climate might make it hard to achieve action that will benefit the public health, many members of Congress are determined to try.